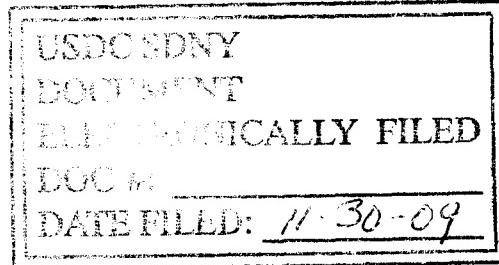


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 GRAND RODOSI, INC., :
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 Plaintiff, : 09 Civ. 3875 (JSR)
 :
 :
 -v- : ORDER
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 :
 ZHOUSHAN IMC-YY SHIPYARD & :
 ENGINEERING CO. LTD., :
 :
 :
 Defendant. :
 ----- x
 JED S. RAKOFF, U.S.D.J.



By Order dated October 19, 2009, the Court vacated the attachment previously issued in this case for reasons stated in Shipping Corp. of India v. Jaldhi Overseas Pte Ltd., ___ F.3d ___, 2009 WL 3319675 (2d Cir. Oct. 16, 2009), and rendered final judgment dismissing the case. Plaintiff, Grand Rodosi Inc., has since applied for the Court to reissue a judgment specifying that this dismissal is without prejudice. Defendant, Zhoushan IMC-YY Shipyard & Engineering Co. Ltd., opposes. The Court hereby grants plaintiff's application and specifies that its dismissal of the case is without prejudice.

Jaldhi held that electronic fund transfers (EFTs) "cannot be 'defendant's . . . property' and therefore are not subject to Rule B attachment." Id. at *11 (omission in original). Because "[i]n Rule B attachment proceedings, jurisdiction is predicated on the presence within the court's territorial reach of property in which the Rule B defendant has an interest," id. at *9 n.12, the Second Circuit's holding in Jaldhi "is properly considered a 'jurisdictional ruling,'" Hawnet, Ltd. v. Overseas Shipping Agencies, ___ F.3d ___, 2009 WL

3790654 (2d Cir. Nov. 13, 2009). Thus, a dismissal pursuant to Jaldhi should be without prejudice, as "[a] dismissal for lack of jurisdiction . . . does not preclude a subsequent action in an appropriate forum . . ." Arrowsmith v. United Press Int'l, 320 F.2d 219, 221 (2d Cir. 1963). This is certainly true in the context of Rule B proceedings, which "adjudicate[] not the merits but only the provisional remedy of a maritime attachment." Navison Shipping A/S v. Yong He Shipping (HK) Ltd., 570 F. Supp. 2d 527, 532 (S.D.N.Y. 2008).

Accordingly, the Court hereby confirms that the dismissal of the instant lawsuit is without prejudice.

SO ORDERED.

Dated: New York, NY
November 30, 2009



JED D. RAKOFF, U.S.D.J.